

THE OFFICE OF JUSTICE PROGRAMS CONVICTED OFFENDER DNA SAMPLE BACKLOG REDUCTION GRANT PROGRAM

EXECUTIVE SUMMARY

In early 2001, state and local DNA laboratories estimated that, at the end of 2000, they held over 745,000 convicted offender DNA samples that had been collected and were awaiting analysis. To aid in reducing this national convicted offender DNA sample backlog, *The Office of Justice Programs Convicted Offender DNA Sample Backlog Reduction Grant Program* (Program), administered by the Department of Justice, Office of Justice Programs (OJP), National Institute of Justice (NIJ), was developed. The Program's objective is to rapidly accelerate the analysis of convicted offender samples collected by states, thereby reducing and ultimately eliminating the national convicted offender DNA sample backlog. OJP used approximately \$14.5 million appropriated by Congress under the Crime Information Technology Act (CITA) to fund the first year of the Program. A total of 21 states applied for grants in the Program's first year, with each state receiving the entire amount requested. States used the funds to hire contractor laboratories to analyze their backlogged convicted offender samples so that the resultant DNA profiles could be entered into the National DNA Index System (NDIS)¹ and assist in solving crimes. This national database is used by participating state forensic laboratories to compare DNA profiles, with the goal of matching case evidence to other previously unrelated cases or to persons already convicted of specific crimes.

While the Program is designed to span several years, our audit focused on the first year of the Program, Fiscal Year (FY) 2000. We audited the Program to: (1) assess the overall impact of the Program on the national offender backlog; (2) assess the compliance of the selected contractor laboratories with pertinent contractual requirements and with the *Quality Assurance Standards for Convicted Offender DNA Databasing Laboratories* (Offender QAS), effective April 1, 1999; and (3) evaluate the adequacy of OJP's administration

¹ NDIS is part of the national network of state and local DNA profile databases known as the Combined DNA Index System (CODIS), and is maintained by the Federal Bureau of Investigation. All records in NDIS are provided by participating state and local DNA laboratories.

of the Program and monitoring of grantee activities, and determine the extent to which selected grantees had administered their grant and monitored their contractor's activities in accordance with federal and agency requirements and with the Offender QAS.

Our audit work included reviewing OJP documentation, conducting audits of three contractor laboratories,² and conducting audits of eight grantee state laboratories.³ At the time of our audits, the eight grantee states that we audited had received approximately 69 percent of the FY 2000 Program funding, which accounted for the funding of approximately 186,000 additional offender profiles to be added to the national database. The three contractor laboratories selected for audit received contracts from 14 of the 21 grantee states, accounting for approximately 85 percent of the first year's Program funding.

The Program funded the analysis of over 288,000 samples in its first year. Funds were awarded based on a price of \$50 per analyzed sample, a baseline price developed by the National Commission on the Future of DNA Evidence. As a condition of each grant, the grantee states were required to analyze, at their own expense, a number of no-suspect cases equal to at least 1 percent of the total number of convicted offender samples for which they were funded. OJP officials stated that the following scenarios qualified as no-suspect cases for the purposes of meeting grant requirements: (1) no suspect was identified in the case, (2) the named suspect was eliminated as a result of the analysis, or (3) the named suspect could not be positively identified due to the lack of a known comparison standard. The states that we audited cited numerous impacts from the Program, including the exoneration of a man who was wrongfully convicted of rape in Texas and the identification of the man who had committed a series of brutal attacks on elderly people in North Carolina.

Despite the Program's results mentioned above, gauging the progress that OJP has made toward achieving the Program's mission of ultimately eliminating the national offender backlog is complicated by the fact that the national offender backlog is continually fluctuating,

² We audited Myriad Genetic Laboratories in Salt Lake City, Utah; The Bode Technology Group in Springfield, Virginia; and ReliaGene Technologies in New Orleans, Louisiana.

³ We audited state laboratories in California, Michigan, North Carolina, Ohio, Texas, Utah, Virginia, and Washington.

and is greatly influenced by changes in state offender DNA collection statutes. State laws determine the offenses for which a convicted offender is required to submit a DNA sample for testing, thereby controlling the number of samples that state DNA laboratories are obligated to analyze. During 2001, 7 states expanded their laws to require DNA samples from all felons, which increased the number of states with such legislation to 14 at the end of 2001. The impact of these legislative expansions can be substantial. For example, with the addition of only one non-violent offense to its statute, Florida's annual intake of samples increased from approximately 8,000 to approximately 48,000 samples in one year.

Consequently, to gauge the impact of the first year of the Program apart from the fluctuations in the national offender backlog, we analyzed the productivity statistics at the eight grantee states selected for audit for the 1-year periods before and during the Program grants. In addition, we reviewed documentation to determine whether each of the eight grantee states had administered their grants in accordance with Program requirements and adequately monitored contractor activities per the Offender QAS.

At each of the three selected contractor laboratories, we reviewed policies, procedures, and other documentation to determine if the laboratory was in compliance with the Offender QAS and other Program requirements. We issued three separate audit reports that detailed the results of these contractor laboratory reviews.⁴

We also reviewed OJP's oversight of the Program to determine if grants were made in accordance with applicable legislation, and whether OJP adequately monitored grantee progress and compliance with Program requirements. In addition, we reviewed OJP's progress toward achieving each of the four performance measurements established for the first year of the Program.

Summary of Findings

Our audit disclosed that while the Program funded the analysis of over 288,000 convicted offender samples that were previously backlogged, it is difficult to determine whether the national offender backlog is actually being eliminated. This determination is complicated by factors including the continuing changes to state statutes requiring

⁴ See Appendix I for additional contractor laboratory report information.

greater numbers of people to provide DNA samples and the challenges to the states to respond to this increased demand. In addition, while the Program grants increased the volume of complete offender profiles uploaded to NDIS, two of the eight grantee states we audited showed no increase in productivity in the 1-year period during the grant that we reviewed, due to delays in uploading contractor data to NDIS.

Overall, we concluded that the selected grantee states met the no-suspect match requirement, adequately monitored their contractors, and generally administered their grants in accordance with Program requirements. In addition, the three contractor laboratories that we reviewed materially complied with the Program requirements and the Offender QAS. However, we found that:

- OJP needs to improve its monitoring of the Program's progress toward achieving its stated performance measurements. While OJP was tracking the Program's progress, OJP officials were not gathering the correct data and statistics necessary to accurately monitor and report that progress. Specifically, two performance measurements established standards for an increase in samples being uploaded to NDIS. However, to monitor the achievement of these measurements, OJP was gathering data on the number of offender samples being returned to the grantee states by the contractors, which is not necessarily the same as the number of offender profiles being uploaded to NDIS. We do not believe that one set of data can be substituted for the other to determine the achievement of the Program's first year performance measurements.
- OJP needs to develop and implement written procedures to ensure that grant officials follow up when grantees fail to comply with grant requirements or fail to file grant reports on a timely basis. We conducted two reviews at OJP. During the first review, we noted that 14 of the 21 Program grantees either did not submit required reports or submitted reports after required deadlines. Further, we noted that 15 of the 21 Program grantees did not submit required quality assurance test results to OJP. Officials at OJP were initially unsure of the status of these reports or quality assurance results. In our judgment, if Program reports are not submitted and reviewed, OJP cannot adequately track or monitor grantee progress toward achieving the Program's goals and objectives. In addition, if issues with quality assurance samples are noted and not reported to OJP,

any corrective action necessary cannot be made on a timely basis. This could potentially have an adverse impact on the integrity of the national DNA database. In response to our review, OJP initiated informal procedures to follow up on unsubmitted or late reports and quality assurance results. When we followed up on our initial findings at OJP, all previously missing periodic and quality assurance reports had been submitted. Further, while we noted that 9 of the 21 grantees submitted reports that were due subsequent to our initial review between 12 and 80 days late, there was evidence of informal follow up by OJP in each grant file.

To address these deficiencies, we made two recommendations to OJP. We recommended that OJP ensure that data being collected and monitored accurately gauges whether the Program is meeting its mission, and develop and implement written procedures to follow up when grantees fail to comply with grant requirements or fail to file grant reports on a timely basis. The OJP response to our findings and recommendations appears in Appendix V of this report.

The audit results, which include information previously identified in individual contractor laboratory reports, are discussed in greater detail in the Findings and Recommendations section of this report. Our audit objectives, scope, and methodology, and a list of contractor laboratories and grantee states audited appear in Appendix I.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
The Combined DNA Index System.....	1
The Office of Justice Programs Convicted Offender DNA Sample Backlog Reduction Grant Program	2
Estimates of the National Offender Backlog	5
FINDINGS AND RECOMMENDATIONS	7
1. Program Impact and Achievement of Performance Measurements	7
Impact of the Program on the National Offender Backlog.....	7
Impact of Program Grants on State Productivity	10
Program Performance Measurements	15
Recommendation.....	19
2. Contractor Compliance with Quality Assurance Standards.....	20
Myriad Genetic Laboratories, Inc.	20
The Bode Technology Group	22
ReliaGene Technologies, Inc.	23
Recommendations	23
3. OJP Oversight and Grantee Compliance with Program Requirements	24
OJP Oversight and Grantee Reporting	25
Timeliness	26
Compliance with Offender Quality Assurance Standards	27
No-Suspect Match Requirement	28
Recommendation.....	28
STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS	29
DNA Identification Act of 1994	29
DNA Analysis Backlog Elimination Act of 2000	30
Crime Information Technology Act	30
STATEMENT ON MANAGEMENT CONTROLS	31

APPENDIX I - OBJECTIVES, SCOPE, AND METHODOLOGY	32
APPENDIX II - GLOSSARY OF TERMS AND ACRONYMS.....	36
APPENDIX III - AUDIT CRITERIA	40
Federal Legislation	40
Quality Assurance Standards	40
Program Grant Solicitation	43
APPENDIX IV - FACTORS INFLUENCING THE BACKLOG.....	44
DNA Technology	44
Potential Resource Issues.....	45
State Legislation	46
Role of Sample Collection Agencies	46
APPENDIX V – OJP COMMENTS ON THE AUDIT RECOMMENDATIONS	47
APPENDIX VI - OFFICE OF THE INSPECTOR GENERAL AUDIT DIVISION ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE REPORT.....	50

INTRODUCTION

The Department of Justice's (Department) strategic plan states that a key objective is to improve the crime fighting and criminal justice administration capabilities of state, tribal, and local governments. Preventing and reducing crime by assisting these governments in improving their law enforcement capabilities is also a strategic goal of the Department. Because the use of DNA profiles (computerized records containing DNA characteristics used for identification) has become an increasingly important crime fighting tool, the Department has assisted governments in implementing, expanding, or improving their use of DNA technology.

The use of DNA by law enforcement has increased dramatically in recent years and many states have enacted or expanded their DNA-related legislation. Between 1988 and 1998, all 50 states enacted DNA collection statutes. These statutes require that an offender convicted of certain offenses give a DNA sample that will be analyzed and the resulting profile will be added to the state's convicted offender DNA database. If local resources are insufficient for the volume of incoming convicted offender samples, a backlog of unanalyzed samples can result. Consequently, the Department initiated grant programs to strengthen DNA capabilities in state and local laboratories, including *The Office of Justice Programs Convicted Offender DNA Sample Backlog Reduction Grant Program* (Program), in an effort to reduce the number of convicted offender samples awaiting analysis.

The Combined DNA Index System

As detailed in a prior Department of Justice Office of the Inspector General (OIG) audit report,⁵ the Federal Bureau of Investigation (FBI) created a hierarchy of DNA profile indexes, the Combined DNA Index System (CODIS), as a tool to further the use of DNA in solving crime. CODIS is a national DNA information repository maintained by the FBI that allows state and local crime laboratories to store and compare DNA profiles from crime-scene evidence and from convicted offenders. The goal of the system is to match case evidence to other previously unrelated cases or to persons already convicted of other crimes. Currently, CODIS contains two primary databases: the

⁵ The prior OIG audit report, titled "The Combined DNA Index System," Report No. 01-26, was issued in September 2001.

convicted offender database and the forensic database (which contains the case evidence profiles). DNA profiles are stored in a database with a similar classification (i.e., convicted offender profiles in the convicted offender database). As of December 31, 2001, there were 829,775 convicted offender profiles and 33,131 forensic profiles in the National DNA Index System (NDIS).

State and local crime laboratories that participate in CODIS perform DNA analysis on specimens from crime-scene evidence and from convicted offenders. The FBI provides participating laboratories with special software that organizes and manages the DNA profiles and related information. The software also enables participating laboratories to compare DNA profiles and notifies the appropriate laboratories when two or more DNA profiles match. The Forensic Science Systems Unit, part of the FBI's Laboratory Division, was directly involved in the development of all aspects of CODIS and continues with its oversight.

The Office of Justice Programs Convicted Offender DNA Sample Backlog Reduction Grant Program

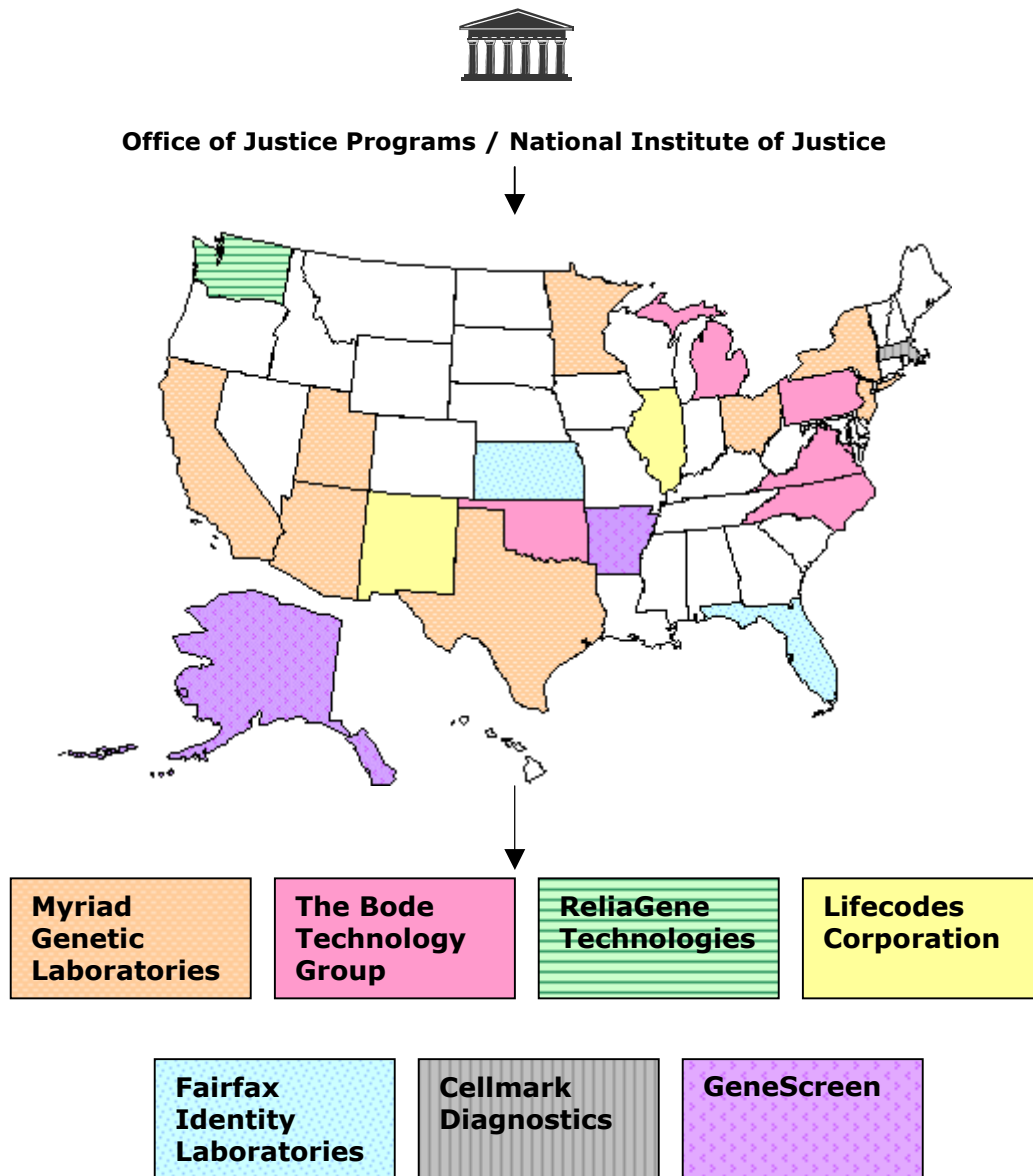
The Program, administered by the Office of Justice Programs (OJP), National Institute of Justice (NIJ), was developed to assist states in reducing or eliminating their offender sample backlogs so that an increased number of profiles could be uploaded to the national DNA database. The mission of the Program is to reduce and ultimately eliminate the convicted offender DNA sample backlog awaiting analysis and entry into the national database.

Congress appropriated \$30 million in FY 2000 under the Crime Identification Technology Act (CITA) for grants to states to reduce their DNA backlogs and for the Crime Laboratory Improvement Program (CLIP). Of that amount, approximately \$14.5 million was used to fund the first year of the Program. For the first year, grant funds were awarded to states based on submitted proposals, and the states then contracted with private laboratories for the analysis of convicted offender DNA samples.⁶

⁶ The Program changed slightly in its second year (FY 2001). OJP awarded funds directly to "pre-approved" contractor laboratories and the states then sent convicted offender samples to the laboratories of their choice. One effect of this change was the elimination of the delays caused by the state procurement processes experienced in the first year of the Program, as identified in Finding No. 3.

The flow of grant funds from OJP to the 21 states receiving the grants and then to the seven contractor laboratories is illustrated in the following graphic:

Grant Program Summary – FY 2000



Source: OJP Program records

A total of 21 states applied for grants in the Program's first year, and all received the funding for which they applied, totaling

approximately \$14.5 million.⁷ These states then contracted with seven private laboratories to complete the analysis of approximately 288,000 offender samples, as summarized in the following table:

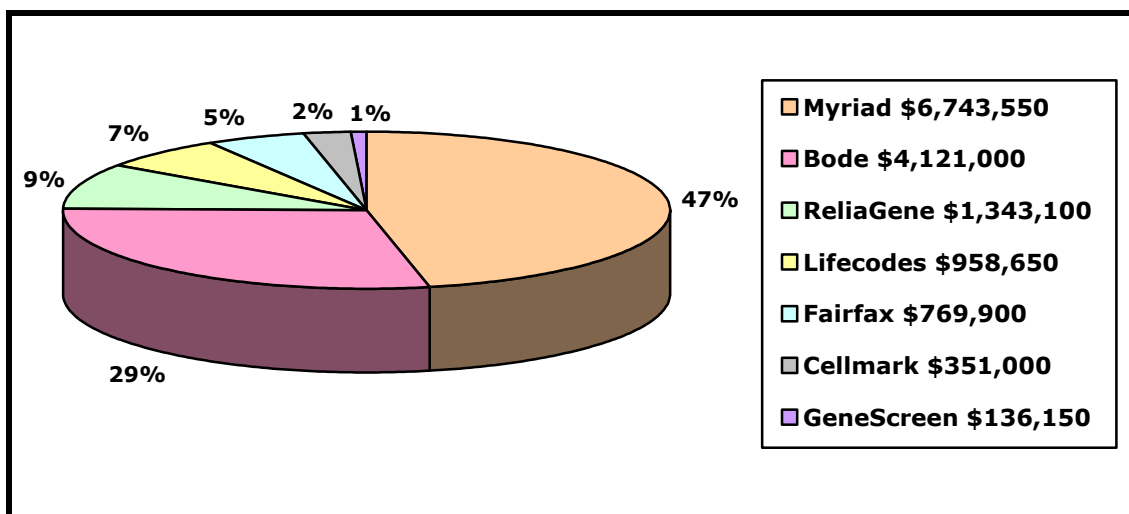
PROGRAM GRANTEES AND CONTRACT LABORATORIES

	Grantee State	Grant Funds Awarded	Samples Funded	Contract Laboratory Selected
1	Texas	\$1,745,550	34,911	Myriad Genetic Labs
2	California	1,500,000	30,000	Myriad Genetic Labs
3	New York	1,447,400	28,948	Myriad Genetic Labs
4	Ohio	1,330,700	26,614	Myriad Genetic Labs
5	Arizona	201,250	4,025	Myriad Genetic Labs
6	Minnesota	200,000	4,000	Myriad Genetic Labs
7	New Jersey	168,650	3,373	Myriad Genetic Labs
8	Utah	150,000	3,000	Myriad Genetic Labs
9	Virginia	1,800,000	36,000	Bode Technology Group
10	Michigan	717,900	14,358	Bode Technology Group
11	North Carolina	700,000	14,000	Bode Technology Group
12	Pennsylvania	653,100	13,062	Bode Technology Group
13	Oklahoma	250,000	5,000	Bode Technology Group
14	Washington	1,343,100	26,862	ReliaGene Technologies
15	Illinois	481,650	9,633	Lifecodes Corporation
16	New Mexico	477,000	9,540	Lifecodes Corporation
17	Florida	400,000	8,000	Fairfax Identity Labs
18	Kansas	369,900	7,398	Fairfax Identity Labs
19	Massachusetts	351,000	7,020	Cellmark Diagnostics
20	Alaska	80,650	1,613	GeneScreen
21	Arkansas	55,500	1,110	GeneScreen
	TOTALS	\$14,423,350	288,467	

Source: OJP Program records

The chart on the following page illustrates the distribution of grant funds among the contractor laboratories hired by the grantee states. As the chart illustrates, the top three laboratories contracted with states that received 85 percent of the total grant funds.

⁷ Funds were awarded based on a price of \$50 per sample to be analyzed, a baseline price developed by the National Commission on the Future of DNA Evidence. States then negotiated with the contractor laboratories to obtain the best per sample price. Any resultant savings were used for the analysis of additional samples, were returned to OJP, or were to be used for other allowable laboratory improvements in accordance with applicable CLIP guidelines.



Source: OJP Grant Tracking Information

Estimates of the National Offender Backlog

While the mission of the Program is to reduce and ultimately eliminate the national offender backlog, measuring whether it is being accomplished is complicated by the fact that the national offender backlog is constantly fluctuating. One of our sources for estimating the magnitude of the national offender backlog was a recommendation made in 1999 by the National Commission on the Future of DNA Evidence (Commission) to the Attorney General.

The Commission, which is comprised of officials from both the public and private sectors, was established in March 1998 at the request of the Attorney General to provide recommendations on the current and future use of DNA technology in the criminal justice system. One of the working groups within the Commission was tasked with considering the national offender backlog and the means by which it could be reduced. The Commission determined that there were substantial numbers of convicted offender DNA samples collected by states that had not been analyzed and entered into the national DNA database. Further, the Commission concluded that the states should be able to address the factors⁸ that were causing each state's offender backlog if additional funds were provided for outsourcing. In its 1999 recommendation, the Commission estimated the national backlog of convicted offender DNA samples at over 700,000.

⁸ See Appendix IV for examples of factors that influence a laboratory's ability to analyze the DNA samples it receives.

Another source of national offender backlog estimates has been surveys conducted by the FBI. According to OJP officials, the estimates of the national offender backlog used by OJP in their Program planning were obtained from the FBI's 1999 Laboratory Survey, in which state and local laboratory management reported various productivity and technology statistics. The most recent laboratory survey results available from the FBI were from the 2000 Laboratory Survey, which was conducted in early 2001. Survey recipients were asked to report the number of backlogged samples that were in their laboratories at the end of 2000 and to provide estimates of the number of backlogged samples they expected to have at the end of 2001. The FBI survey placed the national backlog of offender samples at the end of 2000 at 745,821, while the estimates for 2001 indicated a national offender backlog of 681,470 samples.

FINDINGS AND RECOMMENDATIONS

1. Program Impact and Achievement of Performance Measurements

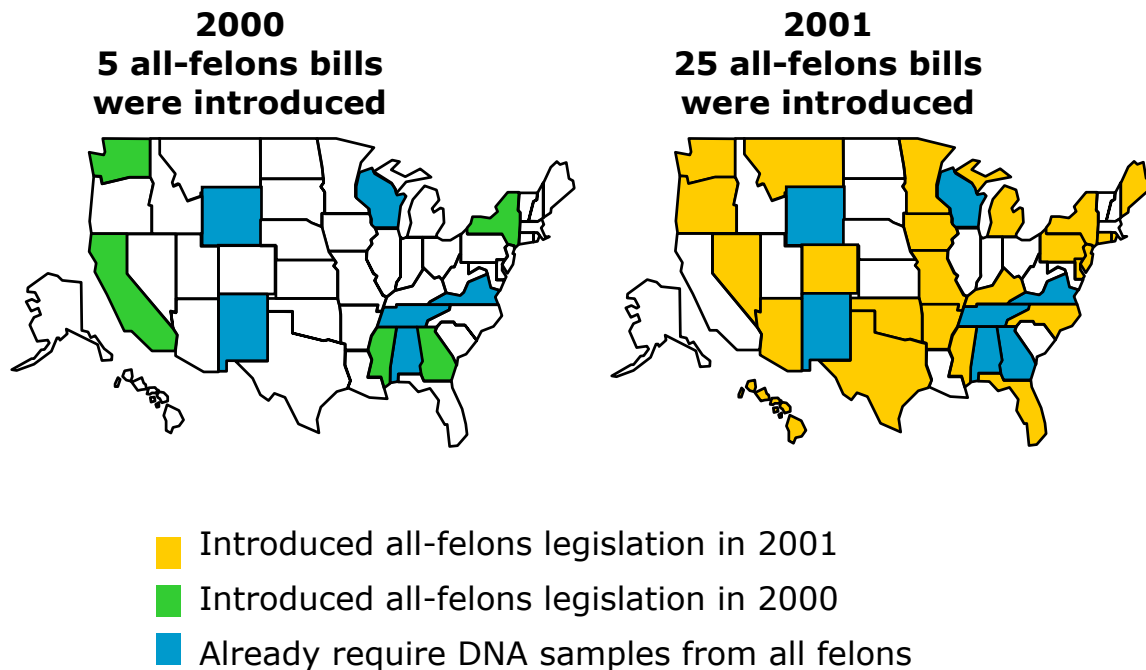
We determined that the Program has been successful in funding the analysis of over 288,000 previously backlogged offender samples, and some data suggests that the national offender backlog is declining. However, because of continuing changes to state statutes requiring greater numbers of people to provide DNA samples, and the challenge to the states to respond to this increased demand, it is difficult to determine whether the national offender backlog will be eliminated. In addition, while the Program grants helped to increase the volume of complete offender profiles uploaded to NDIS, two of the eight grantee states we audited showed no increase in productivity. Finally, although our audit results supported OJP's claim of meeting two of the four FY 2000 Program performance measurements, we could not determine whether the remaining two performance measurements had been met because OJP was not tracking the correct data to substantiate that the performance measurements had been achieved.

Impact of the Program on the National Offender Backlog

As described in the Introduction of this report, the first year of the Program funded the analysis of over 288,000 backlogged offender samples in 21 states. In addition, estimates provided by state and local laboratories in early 2001 indicated that the backlog was decreasing.

However, determining the exact reduction in the national offender backlog in the first year of the Program was precluded by the fact that the national offender backlog is constantly fluctuating, due primarily to the expansion of state DNA collection statutes. The more conviction offenses that require the collection of a sample, the larger the analysis workload is for the states, and the higher the possibility that the states will encounter increasing backlogs. As previously mentioned, since 1988, every state has passed a DNA collection statute. In recent years, states have expanded those collection statutes, with 2001 seeing the most dramatic increase in statute expansions.

According to data provided to OJP,⁹ a total of 35 state legislatures introduced DNA expansion bills in 2001, up from 19 states in 2000 and 10 in 1999. Even more significant, as illustrated below, was the number of state legislatures that proposed requiring the collection of a DNA sample from all felons, one of the broadest collection standards being used in the United States.



Although not all proposed expansion legislation was enacted, bills in 22 states passed in 2001, up from 8 states in 2000 and 6 states in 1999. Further, the number of states with “all-felons” legislation has doubled, increasing from 7 states at the end of 2000, to 14 states by December 2001.

In order to gauge how these expansions might impact the national backlog, we interviewed laboratory management during our eight state grantee audits. From these interviews we obtained estimates from three grantee states for how statute expansions might affect their backlogs in 2001 or 2002. We also gathered information from a fourth grantee state that had statistical data on the impact of the statute expansion in their state in 2000. Their responses illustrate how legislative changes can impact a state’s backlog of offender samples:

⁹ Data was provided to OJP by Smith Alling Lane, Attorneys at Law.

- According to the Florida Department of Law Enforcement Tallahassee CODIS Laboratory sample intake and tracking system, the addition of one non-violent offense of burglary to Florida's statute produced an immediate increase of 40,000 samples, from 8,000 samples for state fiscal year ending June 2000, to approximately 48,000 samples for state fiscal year ending June 2001. The CODIS Laboratory's Administrator stated that this increase reflects the fact that the statute was retroactive, and he expects collections for state fiscal year ending June 2002 to stabilize at approximately 24,000 samples, which is an ongoing annual 16,000 sample increase. The CODIS Administrator stated that by the time Florida's phased-in expansion to all felons is complete, they will be receiving between 50,000 and 60,000 samples per year.
- According to the laboratory management at the Michigan State Police CODIS Laboratory in Lansing, the 2001 change in Michigan's statute requiring collection of DNA samples from all felons is expected to produce an immediate backlog of between 20,000 and 70,000 samples in 2002, depending on the efficiency and timeliness with which the correctional facilities are able to collect the samples.
- The CODIS Administrator of the Texas Department of Public Safety CODIS Laboratory in Austin stated that he does not expect the 2001 expansion of the Texas statute to all felons to increase their backlog for three reasons: (1) the expansion is conditional on funding to analyze the samples, (2) the expansion is not retroactive, and (3) the collection agencies are already collecting approximately 5,000 samples per month, the maximum possible with existing resources.
- Management of the Washington State Patrol Seattle Crime Laboratory estimated that, although Washington's current law authorizes DNA collection only from persons convicted of certain violent crimes, their backlog would increase by over 90,000 samples if Washington enacts legislation that requires DNA collection from all felons, as is proposed for 2002.

The variety of these responses illustrates that while most expansions equate to a considerable increase in a state's analysis burden, not every state is affected the same by a statute expansion. Overall, many variables help determine how much of an impact

expanded legislation has on a state's backlog, including whether legislative changes are retroactive; whether additional appropriations accompany the statute change; whether statutes apply to juveniles in addition to adults; whether statutes apply to probationers and parolees; and which agencies are tasked with the collection of the samples and the compliance level of those collections.

Therefore, based upon the increasing frequency of state legislative changes, all of which will likely increase the number of samples requiring analysis, and the general consensus of the states we interviewed that such increases stand to drastically increase their backlogs, we question whether the backlog reductions accomplished under the Program will be sufficient to reduce and ultimately eliminate the national offender backlog.

Impact of Program Grants on State Productivity

Preliminary information gathered in our audit fieldwork raised the question as to how administering the grants and the resulting contracts would affect the resources of the grantee state laboratories. Specifically, we wanted to determine whether the time taken away from the laboratories' normal in-house analysis (for selecting the contractor, shipping and receiving samples and data, reviewing the data, and completing the requirements of the *Quality Assurance Standards for Convicted Offender DNA Databasing Laboratories* (Offender QAS), effective April 1, 1999, for contractor oversight) would counteract the benefits of the outsourcing.

Consequently, we reviewed CODIS upload documentation for each of the eight grantee states audited to determine how the Program grants affected the number of complete¹⁰ profiles that those states were able to upload to CODIS. Specifically, we compared each state's average number of complete profiles uploaded monthly during the 1-year period prior to the Program grant to the average number of complete profiles uploaded monthly during the 1-year period after the award of the Program grant (limited to one year since the original grant award period was one year). By comparing the productivity of

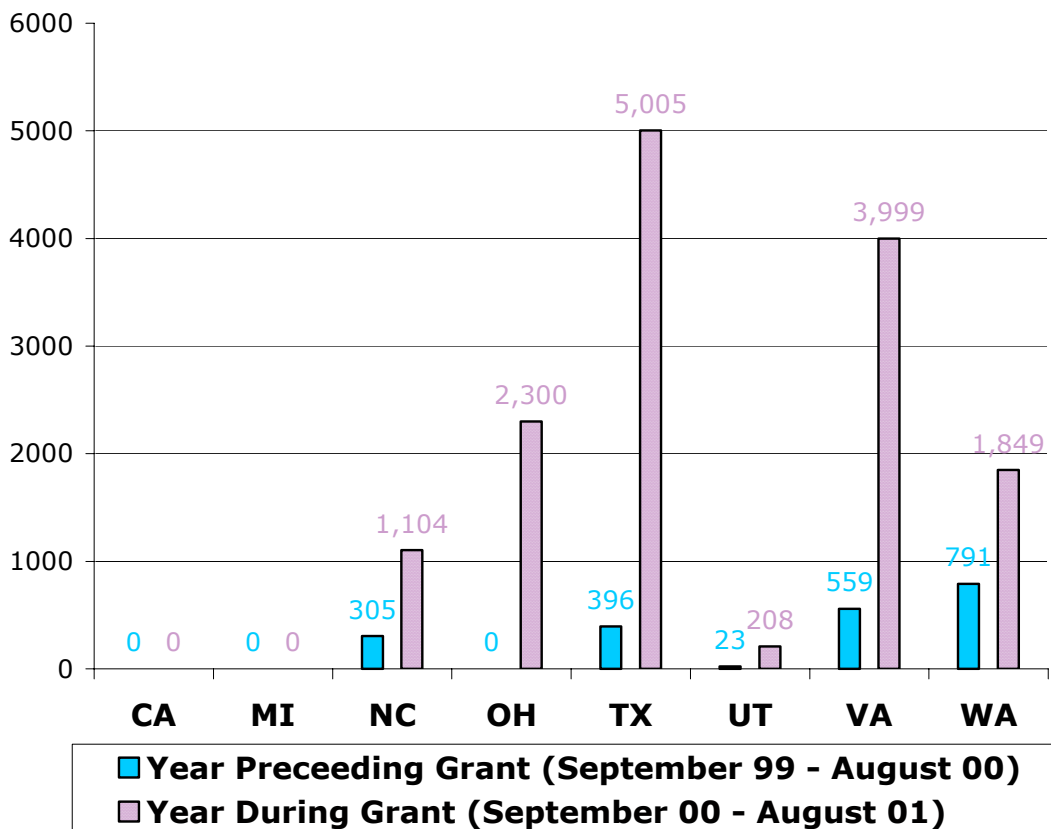
¹⁰ A profile's completeness is determined by the number of loci (see glossary) that were analyzed and for which results were obtained. The FBI requires 13 STR (see glossary) loci for offender samples to be included in NDIS. Therefore, although some grantee states we audited were performing partial in-house analysis (8 or 9 loci), we did not include these partial profiles in our productivity calculations.

the pre-grant award year and the post-grant award year, we intended to demonstrate the possible impact of the Program.

We determined that five of the eight grantee states we audited demonstrated a marked increase in total complete profiles analyzed and uploaded to NDIS in a timely manner after receiving their Program grant. These increases were inclusive of both samples analyzed in-house as well as samples analyzed by the contractor laboratory. However, because of difficulties in efficiently addressing the Offender QAS requirements, two of the eight states we reviewed (California and Michigan), experienced no increase in productivity in the 1-year period following the Program grant award. Both of these states showed no uploads of complete offender profiles to NDIS either before the Program grant or during the Program grant period reviewed.¹¹ In addition, a third state, Ohio, experienced significant delays in their ability to upload profiles returned to them by their contractor. The change in the average number of profiles being uploaded monthly to NDIS before the grant and after the grant is demonstrated for each state in the graph on the following page:

¹¹ We did note that California and Michigan both processed CODIS uploads immediately following the 2-year period we reviewed, as discussed in the remainder of this section.

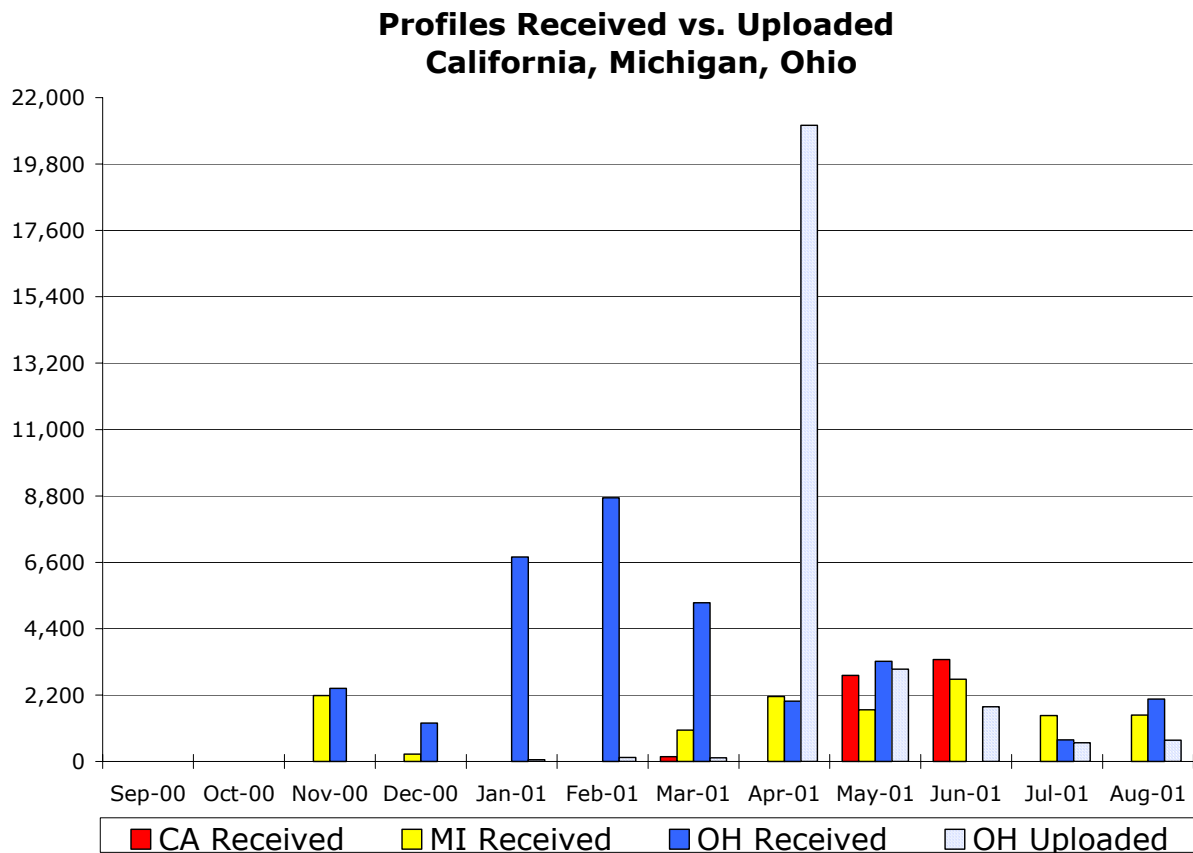
Average Profiles Uploaded Monthly to CODIS



Source: CODIS System Printouts for uploads at each state

The increases experienced by the states could be attributable to one of three causes: (1) an increase in the grantee laboratory's in-house productivity; (2) the effect of the contractor's assistance, under the Program grant, on the laboratory's productivity; or (3) a combination of both of these causes. Therefore, to determine the cause of the increased productivity, we reviewed the laboratory's records of samples analyzed in-house during the contract period. We concluded from this analysis that for five of the six states showing increased productivity (North Carolina, Ohio, Texas, Virginia, and Washington), any increase was due to the work being performed by the contractor, since the states had no increase in in-house productivity during the contract period. The remaining state, Utah, was able to increase in-house productivity during the contract period, in addition to the increase contributed by the contractor. However, the majority of Utah's total increase was attributable to the contractor's work.

In looking further at the two states showing no productivity increase during our audit period, we noted that the contractor laboratories for both states had analyzed samples during our audit period, but the profiles had not been uploaded to CODIS during the audit period. Most states we audited appeared to be uploading contractor data monthly, maintaining a relative pace with incoming contractor data. However, for the two states showing no increase in productivity (California and Michigan), we noted that as many as 10 months passed between when sample data was received from the contractor and when profiles were uploaded to CODIS, with the first upload occurring after our 2-year review period. The delays between when profiles were received from the contractors and when uploads to CODIS occurred are illustrated in the following chart:



As stated previously, neither California nor Michigan uploaded any profiles to CODIS during the 2-year period we reviewed. Further, although Ohio began receiving sample data from the contractor as early as November 2000, the first sizeable upload was not processed

until April 2001, after which point uploads generally kept pace with sample data received. There are no standards or criteria governing how much time states are permitted before they upload contractor data to CODIS. However, profiles that have not been uploaded to NDIS cannot have a nationwide impact in solving crimes.

A key aspect to note regarding the states' ability to upload contractor data to CODIS is that there is always lag time between when the data is received from the contractor and when the data is uploaded by the state to CODIS. This is true because, after receiving the contractor data, states must address the requirements placed upon them by the Offender QAS prior to uploading the data to CODIS. These requirements include, but are not limited to: (1) random reanalysis of samples; (2) visual inspection and evaluation of results/data; (3) inclusion of quality control samples; and (4) conducting on-site visits to the contractor facility. However, as detailed below and in Appendix IV, states vary in their ability to address the Offender QAS in an efficient manner for a variety of reasons, including limitations of staffing, funding, facilities, and computer systems.

For example, California laboratory management stated that several factors hindered their ability to efficiently address the Offender QAS requirements and upload the contractor data to CODIS in a timely manner. These factors included personnel turnover and understaffing, computer memory limitations, as well as complications with the compatibility between their in-house sample tracking system and their contractor's organization of the data. We were provided with documentation substantiating these problems. California was able to process its first CODIS upload of approximately 20,714 complete offender profiles in September 2001, which included samples analyzed in-house and by the contractor.

For Michigan, we determined that a few interrelated factors hindered its ability to efficiently address the Offender QAS requirements and upload the contractor data to CODIS. These factors centered on the Michigan laboratory's decision to complete random reanalysis on 10 percent of the samples analyzed by the contractor. According to laboratory management, this decision was made because this was a new outsourcing contract and they wanted to perform as many quality checks as possible to assure themselves that the contractor's work was acceptable. Although the laboratory was allowed to make this decision under the Offender QAS and under OJP

grant award guidelines, the Michigan laboratory's resources were not sufficient to complete the reanalysis of the large volume of samples at a pace sufficient to keep up with the contractor data being returned. Consequently, the laboratory fell behind in the reanalysis, as seen in the previous chart, and were unable to upload the data to CODIS until the reanalysis was complete. Ultimately the Michigan laboratory addressed the issue by reducing its in-house percentage of reanalysis and having the contractor perform the remaining reanalysis needed to meet the 10 percent level. Michigan was able to process its first upload of 2,916 complete offender profiles to CODIS in September 2001.

The Ohio CODIS Administrator provided information about their difficulty in efficiently addressing the Offender QAS requirements, particularly the requirement for visual inspection of results and data. The CODIS Administrator stated that she is responsible for performing the 100 percent visual inspection of the contractor data, and that it currently takes her approximately 3 hours to review data from 100 samples, depending on the complexity of the samples. She added that initially it took her longer to get oriented to the organization of the contractor's data and to develop a system for efficient review. In addition, the review of the data is only part of her daily responsibilities in the laboratory. Given the volume of profiles being received from the contractor, shown in the previous chart, it would have taken the CODIS Administrator several weeks each month to review the profiles.

As discussed in the following section, the delays in uploading samples to the national database by California, Michigan, and Ohio led us to question the methods by which OJP addressed two of its performance measurements.

Program Performance Measurements

In response to the Government Performance and Results Act, which requires agencies to develop strategic plans that identify their long range goals and objectives, and establish annual plans that set forth corresponding annual goals and indicators of performance, OJP developed performance measurements for the Program. These measurements were consistent with the overall strategic plan for the Department of Justice. The stated mission for the Program is to reduce and ultimately eliminate the convicted offender DNA sample backlog awaiting analysis and entry into NDIS. This mission directly supports the following Department strategic plan goal and objective:

- Goal: To prevent and reduce crime and violence by assisting state, tribal, and local community-based programs.
- Objective: To improve the crime fighting and criminal justice administration capabilities of state, tribal, and local governments.

To monitor the progress toward achieving the desired Program outcomes and results, OJP developed and tracked four performance measurements. We reviewed OJP's progress toward achieving each of the following four performance measurements for the first year of the Program.

1. *Number of labs demonstrating improved access to external capabilities or increased laboratory capacities.*

OJP established a goal of assisting all states that applied for grants, thereby improving those states' access to external capabilities. A total of 21 states applied for approximately \$14.5 million in funding to outsource the analysis of approximately 288,000 convicted offender samples. Supporting documentation revealed that OJP was able to fully fund all 21 requests, thereby meeting this performance measurement.

2. *Number of samples analyzed with 13 STR DNA markers entered into the national database.*

To address this measurement, OJP collected monthly statistics from each of the 21 states detailing the number of samples returned to the states by their contractors. These statistics revealed that over 288,000 samples had been analyzed by the contractor laboratories and returned to the grantee states as of the end of our fieldwork in November 2001. However, OJP was not tracking the number of Program-funded profiles that had actually been entered into NDIS, as required by the performance measurement, because grantee states were reporting "samples received" from the contractor rather than "profiles uploaded" to NDIS.

OJP officials stated that they had not asked the states to report the Program-funded profiles uploaded to NDIS because that data would take more time to report than the number of samples received back from the contractor. Further, they indicated that

they believed that the number of samples returned to the states served as a sufficient measure of the number of profiles available for upload to NDIS, since the only delay between samples received and profiles uploaded was the time that it took the states to address the Offender QAS requirements for oversight of the contractor's data.

Because profiles that have not been uploaded to NDIS cannot have a nationwide impact in solving crimes, we agree with OJP's decision to make profiles uploaded to NDIS a performance measurement for the Program. We also believe that it is reasonable to assume that sample data received back from the contractors will eventually be uploaded to NDIS. However, based upon the data presented in the preceding section regarding delays encountered by California, Michigan, and Ohio in uploading the data received back from the contractor, we do not agree that tracking "samples received" serves as a sufficient substitute for tracking "profiles uploaded" in addressing the performance measurement for FY 2000. Therefore, we conclude that OJP could not substantiate that this performance measurement had been achieved because the appropriate data was not being collected and monitored.

3. *Number of states that have experienced an increase in the number of samples they have contributed to the national database.*

OJP reported that all 21 states receiving FY 2000 Program funding had experienced an increase in the number of complete offender profiles they had contributed to the national database, since all 21 states used the funds to outsource the analysis of convicted offender samples. Based upon our audit results, we agree with OJP that all 21 states used the funds to outsource the analysis of convicted offender samples. However, based upon the data presented in the preceding section regarding delays encountered by California, Michigan, and Ohio in uploading data to NDIS, we do not agree that samples funded can be substituted for the number of profiles contributed to the national database when addressing 1-year performance measurements. Therefore, we conclude that OJP could not substantiate that this performance measurement had been achieved because the appropriate data was not being collected and monitored.

4. *Number of DNA samples processed in cases where there is no known suspect.*

As a condition of each grant award, each state was required to, at their own expense, analyze no-suspect cases equal to 1 percent of the offender samples for which they were receiving Program funding. We were able to determine that grantee states had reported to OJP, as part of the monthly statistics collected by OJP, that more than 2,890 no-suspect cases had been analyzed. Therefore, OJP stated that it had met its fourth performance measurement. For the states we audited, we were able to confirm that the states' assertions regarding their completion of their no-suspect match requirement were supported by appropriate documentation as detailed within Finding No. 3 of this report.

Our audit results supported OJP's claim of meeting FY 2000 Performance Measurement Nos. 1 and 4. However, OJP was not tracking the correct data to substantiate that it had met Performance Measurement Nos. 2 and 3; therefore, we could not determine from OJP records that those measurements had been achieved.

In addition to assessing whether OJP had met the performance indicators it had established, we also assessed whether there were other performance measurements that could be established that would provide decision makers within the Department and in Congress with information on whether the Program was meeting its mission to reduce and ultimately eliminate the convicted offender DNA sample backlog awaiting analysis and entry into NDIS. We identified two areas that we think OJP should consider:

- OJP did not include the number of CODIS hits¹² and investigations aided¹³ involving Program-funded DNA profiles in its performance measurements for FY 2000 of the Program. OJP officials stated that since it takes a period of time between when profiles are uploaded to NDIS and when those profiles begin

¹² A "hit" is a match between two DNA profiles in the database, linking a convicted offender to a previously unsolved case, linking two previously unlinked unsolved cases, or a combination thereof.

¹³ "Investigations aided" is the primary measuring unit used by the FBI to quantify the success of CODIS. An investigation is aided when a DNA match through CODIS either identifies a potential suspect or links separate crimes together.

impacting investigations, they did not include these metrics in the Program's first year performance measurements. However, OJP did track hits and investigations aided as reported by grantees from Program-funded profiles for FY 2000. According to state-reported information collected by OJP, the 21 grantee states had 773 hits and 587 investigations aided as of December 2001.

- During our review, we noted that the Program's mission is to reduce and ultimately eliminate the national offender backlog. However, none of the Program's performance measurements specifically monitor the reduction and/or elimination of the national offender backlog. In this report, we acknowledge that the national offender backlog is a fluctuating number due to expansions in state statutes that increase the numbers of convicted offender DNA samples that are collected, and due to each state's ability to respond to these increases. Further, we understand that OJP does not control whether every state with an offender backlog actually applies for grant funds to help reduce that backlog. However, without a performance measurement that specifically assesses the Program's ultimate impact on the national offender backlog, OJP cannot measure the Program's progress in achieving its mission to reduce and ultimately eliminate the convicted offender DNA sample backlog. This measure may also be useful for estimating future Program funding needs.

Recommendation:

We recommend that the Assistant Attorney General, Office of Justice Programs:

1. Ensure that the data being collected and monitored accurately gauges whether the Program is meeting its mission to reduce and ultimately eliminate the convicted offender DNA sample backlog awaiting analysis and entry into NDIS.

2. Contractor Compliance with Quality Assurance Standards

We assessed three Program contractor laboratories' compliance with standards governing their DNA analysis contracts with Program grantees. These three contractors received contracts from 14 of the 21 grantees, accounting for 85 percent of the first year's Program funding. We determined that the contractors generally complied with these standards, with a few exceptions related to the Offender QAS for equipment calibrations and continuing education documentation.

The first year of the Program was designed so that the states receiving grants were responsible for screening and selecting contractors that met certain criteria. In general terms, states were to select contractors that could perform DNA analysis of offender samples (1) in compliance with the Offender QAS, and (2) in a manner consistent with the requirements placed upon contractors, through the states, by the Solicitation and attached certifications. Further information on this criteria can be found in Appendix III.

The 21 states that received FY 2000 Program grants contracted with a total of 7 private contractor laboratories, as set forth in the Introduction section of this report. Of these seven contractor laboratories, we selected for audit the three contractors that accounted for the majority of the grant funding and the majority of samples to be analyzed: Myriad Genetic Laboratories, Inc., located in Salt Lake City, Utah; The Bode Technology Group, located in Springfield, Virginia; and ReliaGene Technologies, Inc., located in New Orleans, Louisiana.

The exceptions identified for each of the contractors audited are summarized below.

Myriad Genetic Laboratories, Inc.

For our audit of Myriad Genetic Laboratories, Inc. (Myriad), we considered 130 elements¹⁴ of the Offender QAS. We found that Myriad complied with the Offender QAS except for the following two areas.

¹⁴ For each of the contractors audited, we considered all 130 elements of the Offender QAS but did not test for compliance with elements that were not applicable to that contractor's DNA activities. See Appendix III for a description of the 130 elements.

Missing Calibrations

Offender Standard 10.2 states that a laboratory shall identify critical equipment and shall have a documented program for the calibration of instruments and equipment. Although Myriad complied with this standard by identifying critical equipment and by having a documented calibration program, we determined that Myriad had not followed that calibration program for one of the ten critical equipment items we reviewed. The item, a balance, was not calibrated between November 1999 and June 2001, a span of 19 months, during which 3 semi-annual calibrations should have been performed.

Myriad management stated that the missing calibrations were due to a misunderstanding in which the technician responsible for the calibrations thought that the frequency of required calibration had changed from semi-annual to "at use," when actually the reverse had occurred. The misunderstanding was identified due to our request to see the calibration logs. The item was calibrated while we were on site and laboratory personnel noted no problems with the instrument.

According to Myriad management officials, Myriad's comprehensive central tracking system monitors the performance of all aspects of the process and would have been able to detect analysis problems caused by a faulty balance had there been any. Supporting documentation for how the tracking system identifies analysis problems was reviewed by the auditors. Because the balance was found to be within accuracy limits and because the tracking system appears to have been capable of detecting analysis problems caused by an inaccurate balance, we concluded that the only deficiency was not performing the calibration at the required intervals.

Missing Documentation of Equipment Tests

Offender Standard 10.3.1 states that new critical instruments and equipment, or critical instruments and equipment that have undergone repairs or maintenance, shall be calibrated before use. Offender Standard 10.3.2 states that written records or logs shall be maintained for the maintenance service performed on instruments and equipment, and that such documentation shall be retained in accordance with federal or state law. Although Myriad personnel do maintain logs as described in Offender Standard 10.3.2, the logs did not provide sufficient documentation to demonstrate that two of the ten critical equipment items reviewed had been calibrated after their

most recent repairs. Myriad management stated that the equipment had been calibrated before being put back in use, as required by Offender Standard 10.3.1, and the fact that no further problems arose with the items since then served as evidence that the items were fit for continued use. However, they acknowledged that the logs did not reflect the calibration work that had been performed to approve the items for continued use.

The Bode Technology Group

For our audit of The Bode Technology Group (Bode), we considered 130 elements of the Offender QAS. We found that Bode complied with the Offender QAS except for one area of noncompliance described below.

Continuing Education Documentation

Offender Standard 5.1.3.1 states that the technical manager, CODIS manager, and analysts must stay abreast of developments within the field of DNA typing by reading current scientific literature and by attending seminars, courses, professional meetings, or documented training sessions or classes in relevant subject areas at least once per year. This requirement is listed as a substandard of Offender Standard 5.1.3, which requires a continuing education program. In reviewing Bode's policies and procedures, we noted that Bode had a continuing education program that mirrored the requirements of Offender Standard 5.1.3.1. In addition, Bode had a system of documentation that accounted for the attendance of appropriate personnel at seminars, courses, and meetings. However, the laboratory did not have a mechanism in place to document that appropriate personnel, such as the technical manager and analysts, had completed the required reading of scientific literature.

Laboratory management was able to produce a routing slip that was attached to an article from a recent scientific journal, on which the technical manager had signed off. However, any of his reading completed in previous years, as well as any reading completed by analysts, was not documented. Laboratory management stated that all appropriate personnel are actively engaged in reading scientific literature that is routed through the laboratory and that the laboratory subscribes to a variety of journals that would make such reading material immediately available to the staff. However, they

acknowledged that there was no documentation to substantiate that the requirement was met.

ReliaGene Technologies, Inc.

For our audit of ReliaGene Technologies, Inc. (ReliaGene), we considered 130 elements of the Offender QAS. We found that ReliaGene complied with the Offender QAS except for one area of noncompliance described below.

Missing Calibrations

Offender Standard 10.2 states that a laboratory shall identify critical equipment and shall have a documented program for the calibration of instruments and equipment. Although ReliaGene complied with this standard by identifying critical equipment and by having a documented calibration program, ReliaGene staff did not comply with their own calibration program for one of the ten equipment items reviewed. ReliaGene's calibration program requires that the temperature verification system be calibrated annually. Documents reviewed indicated that this system was placed into service on July 22, 1999. However, no calibrations subsequent to the initial calibration were performed until August 22, 2001, the date our audit revealed the deficiency. This was a span of 25 months.

ReliaGene's management stated that the missing calibrations were due to oversight and immediately calibrated the instrument while we were on site. ReliaGene personnel noted that the instrument was within acceptable ranges when compared with a National Institute of Standards and Technology thermometer, thereby indicating there were no problems with the instrument.

Recommendations:

We issued separate audit reports¹⁵ to OJP for each of the three contractor laboratories audited. Because OJP is providing oversight while these laboratories are responding to our audit findings through their respective grantee states, we will not provide additional recommendations to address contractor laboratory audit findings in this report.

¹⁵ See Appendix I for the report numbers and additional information.

3. OJP Oversight and Grantee Compliance with Program Requirements

OJP's management controls over grantee compliance with Program requirements need improvement. In May 2001, we conducted reviews of OJP documentation for all 21 Program grantees. We also conducted in-depth fieldwork at 8 of those Program grantees. We determined that 14 of the 21 grantees either did not submit required reports or submitted reports after the deadlines. Further, we noted that 15 of the 21 grantees did not submit required quality assurance test results to OJP. Finally, 14 of the 21 grantees reviewed did not comply with Program requirements relating to timeliness. In our judgment, if Program reports are not submitted and reviewed, OJP cannot adequately track or monitor grantee progress toward achieving the Program's goals and objectives. In addition, if issues with quality assurance samples are noted and not reported to OJP, any corrective action necessary cannot be made on a timely basis. This could potentially have an adverse impact on the integrity of the national DNA database. However, we did note that OJP had implemented informal follow-up procedures as a result of our findings by the time our subsequent audit work was conducted in November 2001.

We reviewed OJP's oversight of the Program to determine if grants were made in accordance with applicable legislation, and whether OJP adequately monitored grantee progress and compliance with Program requirements. In addition, we reviewed eight selected grantees' oversight of their contractor laboratories to determine if they were monitoring them in accordance with the Offender QAS, and whether the grantees were complying with key Program requirements.

The Crime Information Technology Act (CITA) provided for grants to state governments to promote compatibility and integration of national, state, and local systems for criminal justice purposes and for the identification of sexual offenders. Further, the CITA specified allowable uses for the grant funds, including programs: (1) to establish, develop, update, or upgrade the capabilities of forensic science programs and medical examiner programs related to the administration of criminal justice; (2) leading to accreditation or certification of individuals and departments, agencies, or laboratories; and (3) relating to the identification and analysis of DNA. We found that all Program grants were made to state governments for the

purpose of outsourcing the testing of convicted offender DNA samples, and thus were made in accordance with the CITA.

OJP developed and issued Program requirements in its *Solicitation for CODIS STR Analysis of States' Collected Convicted Offender DNA Samples* (Solicitation), dated March 2000. The Solicitation specified general grant guidelines and restrictions, as well as more specific requirements. Grantee states were required to certify that they were in compliance with certain provisions of the DNA Identification Act of 1994, including the Offender QAS relating to the oversight of contractors. In addition, grantees were required to adhere to timeliness requirements and deadlines relating to the selection of contractors, the submission of DNA samples to contractors for testing, and reporting requirements.

OJP Oversight and Grantee Reporting

Program grantees were required to submit quarterly financial status reports, semi-annual progress reports, and quality assurance test results. These reports contain information necessary for OJP to track and monitor grantee progress, such as contractor selection information, dates of sample shipment, and other details relating to contractor oversight that would allow OJP to ensure grantee compliance with Program requirements and with the Offender QAS. During our initial review in May 2001, we noted that 14 of the 21 grantees either did not submit required progress or financial status reports, or submitted the reports an average of 133 days after the required deadlines. At that time, OJP was unsure of the status of these reports. Further, while OJP did have an informal mechanism for tracking grant progress, no system of follow up was in place to ensure that required reports were submitted.

Between our initial review in May 2001 and our follow-up review in November 2001, an additional progress report and two additional financial status reports were due from each grantee. In response to our initial review results, OJP had initiated informal follow-up procedures for unsubmitted or late reports through the development of a report tracking spreadsheet. Further, there was evidence of e-mails in grantee files showing that OJP was monitoring these reports and contacting grantees to remind them of the missed deadlines. Further, our follow-up review revealed that all previously missing reports had been submitted. While we noted that 9 of the 21 grantees submitted

reports that were due subsequent to our initial review between 12 and 80 days late, there was evidence of OJP follow up in each grant file.

Program grantees were also required to submit quality assurance test results to OJP. To ensure the accuracy of profiles received from the contractor laboratories, Program requirements specified that each state submit quality assurance samples (i.e., samples with unknown values to the contractor but with known values to the state), with the first group of convicted offender samples sent to the contractor laboratory. Further, the results of these quality assurance samples were required to be reported to OJP within 30 days of receipt of the results.

During our initial review in May 2001, we noted that 15 of the 21 grantees did not submit the quality assurance test results to OJP as required. At that time, OJP officials were unsure of the status of the quality assurance results. In response to our initial review, OJP instituted an informal follow-up process with the grantee states. During our second review at OJP in November 2001, we noted that all grantee states had submitted the required quality assurance test results subsequent to our initial review. While no significant quality assurance issues were reported by these 15 states, it is important for OJP to be aware of these results so that adequate grantee oversight and timely resolution of any quality issues can occur.

In our judgment, quality assurance tests are a key control to ensure the accuracy of DNA test results. Because this was a new program and many of these private contractor laboratories were being utilized by the grantee states for the first time, the results of these quality assurance tests were crucial. If quality assurance deficiencies had been noted and not reported to OJP, timely oversight by OJP could not have been accomplished.

Timeliness

Program grantees were required to ensure they complied with two timeliness guidelines. The first guideline required grantees to expedite their state procurement process to ensure that a contractor laboratory was selected and the first group of convicted offender samples was provided to that laboratory within 120 days of the OJP grant award notification letter. Preliminary data gathered at OJP in May 2001 indicated that 6 of 21 Program grantees did not meet this requirement, providing their first group of offender samples to their

contractor laboratory between 12 and 65 days late. Of the six grantees not meeting this requirement, we gathered further data to determine the cause at the two grantees that were among the eight grantees we audited. While both grantees followed their state procurement processes, which was also required by the Program, the lengthy procurement process contributed to delays at one grantee state totaling 159 days. Further, procurement delays and other laboratory challenges caused a second grantee to not provide their first group of samples to the contractor laboratory until 185 days after the date of the OJP grant award notification letter. Changes made to the Program in its second year essentially eliminated the types of procurement delays states experienced in the first year of the Program.

A second timeliness guideline required grantees to ensure the contractor laboratory analyzed and reported back the results of the analysis of each group of convicted offender samples within 30 days of receipt. From preliminary data gathered at OJP in May 2001, we determined that the contractor laboratories for 10 of 21 Program grantees did not meet this requirement for returning the first group of samples, returning them between 2 and 56 days late. Of the ten grantees not meeting this requirement, we gathered further data to determine the cause at the three grantees that were among the eight grantees we audited.

One delay was due to an unforeseen genetic variation that occurred in a particular section of the DNA being analyzed, affecting the contractor's ability to process the samples. This issue was resolved, but caused the first group of results to be reported 84 days after shipment. The second delay was caused by differences in how initial results were being reported by one contractor and how the state wanted the results to be reported. This was also resolved, but resulted in the first group of results being reported 45 days after shipment. The third delay was the result of a manufacturer's untimely release of software for a new piece of equipment being brought into operation at the contractor laboratory, which caused the first group of results to be reported 49 days after shipment. All of these one-time delays were satisfactorily explained, and in our judgment, did not negatively impact the overall Program effectiveness.

Compliance with Offender Quality Assurance Standards

Section 17 of the Offender QAS requires any laboratory using subcontractors to establish review procedures to verify the integrity of

data received from the subcontractor. This section specifies that these review procedures include: (1) random reanalysis of samples, (2) visual inspection and evaluation of results, (3) inclusion of quality control samples, and (4) on-site visits.

We reviewed data and documentation maintained by each of the eight grantees we audited to ensure that contractor review procedures had been established and followed in accordance with the Offender QAS. We noted no deficiencies relating to grantee compliance with the Offender QAS pertaining to contractor review and oversight.

No-Suspect Match Requirement

Instead of requiring a monetary local match, Program guidelines required grantees to analyze, at their own expense, no-suspect cases¹⁶ equal to at least 1 percent of the total number of convicted offender samples for which grant funds were awarded. This analysis was required to be conducted within the grantee's laboratory system. All eight grantees reported that they had met or exceeded their match requirement as of the conclusion of our audit fieldwork.

Each grantee provided us with a list of cases that they had analyzed to meet the grant match requirement. Using each list, we either randomly or judgmentally selected a total sample of 113 cases out of a total of 2,414 cases, and reviewed documentation to ensure that each case met the following Program requirements: (1) the analysis had to occur after October 1, 1999, and (2) each case had to qualify as a no-suspect case. All 113 cases that we reviewed met the Program requirements.

Recommendation:

We recommend that the Assistant Attorney General, Office of Justice Programs:

2. Develop and implement written procedures to ensure that OJP grant officials follow up when grantees fail to comply with grant requirements or fail to file grant reports on a timely basis.

¹⁶ OJP stated that the following scenarios qualified as no-suspect cases for the purposes of meeting grant requirements: (1) no suspect was identified, (2) the named suspect was eliminated as a result of the analysis, or (3) the named suspect could not be positively identified due to the lack of a known comparison standard.

STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by Government Auditing Standards, we tested OJP records and grant documents pertaining to the Program to obtain reasonable assurance about OJP's compliance with laws and regulations, that, if not complied with, we believe could have a material effect on the administration of the Program. Compliance with laws and regulations applicable to qualifying Program applicants for grant eligibility and to the administration of the Program grants is the responsibility of OJP management. An audit includes examining, on a test basis, evidence about compliance with laws and regulations. The pertinent legislation and the applicable regulations it contains are as follows:

DNA Identification Act of 1994

- authorized the establishment of a national index of: (1) DNA identification records of persons convicted of crimes, (2) analyses of DNA samples recovered from crime scenes, and (3) analyses of DNA samples recovered from unidentified human remains;
- specified several standards for those laboratories that contribute profiles to the national index system, including proficiency testing requirements for DNA analysts and privacy protection standards related to the information in the national index system;
- established criminal penalties for individuals who knowingly violate the privacy protection standards and provided that access to the national index system was subject to cancellation if the quality control and privacy requirements were not met; and
- limited the use of grant funds to carrying out all or a substantial part of a program or project intended to develop or improve the capability to analyze DNA in a forensic laboratory. The federal share of grant funds was limited to 75 percent of the total cost of the project.

DNA Analysis Backlog Elimination Act of 2000

This Act provided for grants to be made to states to carry out, for inclusion in CODIS, DNA analyses of samples taken from individuals convicted of qualifying state offenses. This Act was signed into law on December 19, 2000, but no funds were appropriated in time to fund the first year of the Program.

Crime Information Technology Act

- provided for grants to be made to state governments to promote compatibility and integration of national, state, and local systems for criminal justice purposes and for the identification of sexual offenders; and
- detailed general allowable grant fund uses including "for programs to establish, develop, update, or upgrade the capabilities of forensic science programs and medical examiner programs related to the administration of criminal justice, including programs leading to accreditation or certification of individuals and departments, agencies, or laboratories, and programs relating to the identification and analysis of deoxyribonucleic acid...."



Our tests revealed that OJP complied with all applicable legislation.

STATEMENT ON MANAGEMENT CONTROLS

In planning and performing our audit of the Program, we considered OJP's management controls for the purpose of determining our auditing procedures. In addition, we evaluated the process used by OJP to award grants under the Program and to monitor grantees. The evaluation of OJP was not made for the purpose of providing assurance on the management control structure as a whole; however, we noted certain matters that we consider to be reportable conditions under generally accepted government auditing standards.

Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the management control structure that, in our judgment, could adversely affect OJP's ability to administer the Program grants. We noted one deficiency relating to OJP's monitoring and reporting of the Program's performance measurements, discussed in Finding No. 1. We also noted one deficiency concerning OJP's oversight of grantees, discussed in Finding No. 3. However, we did not consider these deficiencies to be a result of systemic management control issues.

Because we are not expressing an opinion on OJP's management control structure as a whole, this statement is intended solely for the information and use of OJP in administering the Program.

APPENDIX I

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our audit of the Program were:

1. to assess the overall impact of the Program on the national offender backlog;
2. to assess the compliance of the selected contractor laboratories with pertinent contractual requirements and the Offender QAS; and
3. to evaluate the adequacy of OJP's administration of the Program and monitoring of grantee activities, and determine the extent to which selected grantees had administered their grant and monitored their contractor's activities in accordance with federal and agency requirements, and with the Offender QAS.

We conducted our audit in accordance with *Government Auditing Standards*. We included such tests as were considered necessary to accomplish the audit objectives.

The audit generally covered the period from the award of the Program's first year of grants in August 2000 through the completion of audit fieldwork in November 2001. However, for comparison purposes, we gathered pre-award productivity statistics for selected grantee states for one year prior to the Program grant award. In addition, we limited our post-award productivity statistics to one year following the grantee's receipt of their Program grant, since the Program grants were intended to last one year.

Audit work was conducted at OJP, at the top three high-dollar contractor laboratories, and at selected Program grantees contracting with those three contractor laboratories. Further, our work at the contractor laboratories was limited to the portion of their personnel, facilities, and documentation that involved the analysis of offender samples for Program grantees.

To assess the overall impact of the Program on the national offender backlog, we reviewed grantee productivity and CODIS upload statistics for both pre-award months (up to one year prior to the Program grant award) and for post-award months (up to one year

APPENDIX I

after the Program grant award), reviewed documentation of the attainment of Program goals and performance measurements; and interviewed key grantee and OJP personnel.

We audited the following three contractor laboratories and issued a separate report to OJP for each:

- Myriad Genetic Laboratories, Inc., Salt Lake City, Utah
Audit Report No. GR-80-01-016, issued July 2001
- The Bode Technology Group, Springfield, Virginia,
Audit Report No. GR-80-01-018, issued September 2001
- ReliaGene Technologies, Inc., New Orleans, Louisiana,
Audit Report No. GR-80-01-019, issued September 2001

For each of these contractor laboratories we assessed compliance with the Offender QAS by:

- interviewing laboratory officials responsible for maintaining each state's offender samples and data, assuring compliance with quality assurance standards, and maintaining records on DNA employees, such as qualifications, training, and proficiency testing;
- touring the laboratory facilities to physically verify each contractor's adherence to its own policies on security and evidence control, as well as to observe compliance with various QAS issues; and
- reviewing contractor offender samples and DNA-related policies, as well as supporting documentation for compliance with these policies; including, but not limited to, interpretation of data, frequency of equipment calibration and maintenance, facility security, sample handling, validation records, proficiency testing, and corrective action.

We also assessed the contractor's compliance with OJP Program requirements, including the timely return of data to their client states, by interviewing selected contractor management and reviewing documentation of data shipments.

APPENDIX I

To evaluate OJP's oversight of the Program grantees, we interviewed key personnel and reviewed grantee tracking files and electronic records. This review focused on the Program's performance measurements, the timely filing of all required reports by the grantees, and the monitoring of grantee progress in completing their contracts.

We selected eight Program grantees to audit. Generally, our selection was based on the amount of grant funds each grantee provided to the three contractor laboratories we audited, with two exceptions. First, Ohio was substituted for New York after the events on September 11, 2001. Second, for efficiency purposes, Utah was selected because the laboratory was located in close proximity to Myriad Genetic Laboratories in Salt Lake City. The eight Program grantees we audited were:

- California Department of Justice Bureau of Forensic Services DNA Databank Program, Berkeley, California
- Michigan State Police, Forensic Science Division, DNA/Biology Unit, East Lansing, Michigan
- North Carolina State Bureau of Investigation Crime Laboratory, Raleigh, North Carolina
- Ohio Bureau of Criminal Investigation and Identification, London, Ohio
- Virginia Division of Forensic Science Forensic Biology Section Central Laboratory, Richmond, Virginia
- Texas Department of Public Safety CODIS Laboratory, Austin, Texas
- Utah Department of Public Safety Bureau of Forensic Services Forensic Biology Section, Salt Lake City, Utah
- Washington State Patrol Crime Laboratory, Seattle, Washington

Of these grantees, our audit fieldwork in North Carolina and Texas was not conducted on-site, but included the use of previous OIG CODIS laboratory audit results, with the remainder of the fieldwork

APPENDIX I

conducted via the provision of documentation and other information. For each of these audits, we assessed compliance with the contractor oversight provisions of the Offender QAS by reviewing documentation of on-site visits, data review, random re-analysis, and quality control sample results. To assess the grantees' compliance with OJP's solicitation requirements, we interviewed key grantee personnel regarding changes to their state's DNA collection statute and regarding factors influencing the completion of their Program grant. We also reviewed supporting documentation for state procurement practices and contractor selection (except in North Carolina and Texas), and for 5 percent of the no-suspect cases counted by each grantee toward their 1 percent match requirement. For the match requirement, we set sampling limits of a minimum of 10 cases and a maximum of 20 cases for each grantee audited.

APPENDIX II

GLOSSARY OF TERMS AND ACRONYMS

ASCLD/LAB: the American Society of Crime Laboratory Directors/Laboratory Accreditation Board is one of the organizations that provides accreditation for labs. The organization performs a thorough inspection of the laboratory before it grants accreditation.

Candidate Match: when the CODIS software identifies what appears to be a match between two or more profiles, that match is called a candidate match. The candidate, or potential match, must then be verified by looking at the match details (produced by the software on a "Match Report"). If the candidate match is verified, then it is treated as a true match and it is considered a hit. Candidate matches that are determined to not be real matches are more common with the RFLP method than the STR method, since the STR method is more discriminating.

CODIS Administrator: the person at each laboratory that is responsible for the administration and security of the laboratory's CODIS. The position can also be referred to as CODIS Manager or CODIS Custodian. The CODIS Administrator is required by the QAS for each laboratory with a convicted offender database, although all CODIS labs should have someone filling that role.

Combined DNA Index System (CODIS): provides a framework for storing, maintaining, tracking, and searching DNA specimen information. CODIS refers to the entire system of DNA databases (convicted offender database, forensic database, victim database, etc.) maintained at the national, state, and local levels. CODIS currently consists of three distinct levels: the National DNA Index System, State DNA Index System, and Local DNA Index System.

Convicted Offender Database: consists of DNA records from persons who have been convicted in state or local courts of crimes that, according to state legislation, warrant inclusion in that state's convicted offender database.

DeoxyriboNucleic Acid (DNA): DNA is found in almost all living cells, and carries the encoded information necessary for building and maintaining life. This encoded information is what makes each person an individual. Human DNA consists of two strands of molecules that

APPENDIX II

wrap around each other to resemble a twisted ladder whose sides are connected by rungs of chemicals called bases. There are four kinds of these chemical bases (also called nucleotides), and the order in which they are arranged is called the DNA sequence. It is this unique sequence that is determined when a DNA sample is typed.

DNA Profile: a set of DNA identification characteristics, *i.e.*, the particular chemical base at the various DNA locations (loci), which permit the DNA of one person to be distinguishable from that of another person.

DNA Sample: a body tissue or fluid sample (blood, a buccal sample, or semen, for example) that can be subjected to DNA analysis.

Examiner (Analyst): an individual who conducts or directs the analysis of forensic casework samples, interprets data, and reaches conclusions. In other words, the analyst is the person performing the bulk of the DNA analysis work. The analyst's qualifications are governed by specific requirements as given in the QAS.

Hit: a confirmed match between two or more DNA profiles discovered by CODIS software at a single instant in time. In other words, a hit is a match between two or more profiles that the software finds when profiles are searched against each other. A hit can occur when an offender sample is matched to a sample from case evidence (forensic sample), when a forensic sample is matched against a forensic sample from another case, or a combination of these two.

Investigations Aided: the primary measuring unit that the FBI uses to quantify the success of CODIS. An investigation is aided when a DNA match through CODIS either identifies a potential suspect or links crimes together, but only when the DNA match provides new information that would not have been otherwise developed.

Loci: the plural form of locus.

Locus: a specific physical location on a chromosome. Analogous to an address for a house.

APPENDIX II

National DNA Index System (NDIS): the FBI-maintained national component to CODIS. NDIS contains DNA profiles uploaded from approved SDIS laboratories.

NFSTC: the National Forensic Science Technology Center provides certifications of compliance with the Quality Assurance Standards. The certifications are not the same as laboratory accreditation but are still used as an indication of compliance by various organizations.

Restriction Fragment Length Polymorphism Analysis (RFLP): a technique that uses probes to detect variation in a DNA sequence according to differences in the length of DNA fragments that are created using specific enzymes. These enzymes act like microscopic scalpels and cut the DNA strands at specific points, producing fragments that can be analyzed. The combination and number of base repeats within each particular sequence determine the size of the fragment and the differences among individuals. RFLP was used predominantly by DNA laboratories until newer technology was developed. This method can take as long as a couple of months to obtain results if radioactive agents are used. Also, a sizeable amount of good quality DNA is needed when using RFLP.

QAS: refers to the Quality Assurance Standards issued by the FBI Director upon the recommendation of the DNA Advisory Board. Quality Assurance refers to measures that are taken by labs to monitor, verify, and document performance. Two sets of QAS exist: QAS for Convicted Offender DNA Databasing Laboratories, effective April 1, 1999; and QAS for Forensic DNA Testing Laboratories, effective October 1, 1998.

SDIS: State DNA Index System containing the state-level DNA records uploaded from local laboratory sites within the state. SDIS is the state's repository of DNA identification records and is under the control of state authorities. The SDIS laboratory serves as the central point of contact for access to NDIS.

Short Tandem Repeat Analysis (STR): refers to a DNA typing method that utilizes a certain technology to quickly amplify and analyze sections of DNA that contain short tandem repeats. This method allows a high level of discrimination, since 13 loci (unique locations or identifiers) are examined and subsequently compared with

APPENDIX II

other samples. STR also requires considerably less effort and less DNA than the RFLP technology. STR has been the standard typing method for crime-scene samples, and has been declared the typing method for all NDIS samples.

APPENDIX III

AUDIT CRITERIA

Federal Legislation

CODIS was first described and authorized in the DNA Identification Act of 1994 (Act). The Act, part of the Violent Crime Control and Law Enforcement Act of 1994, authorized the FBI to establish and maintain CODIS. That authorization limited records in CODIS to those that are: based upon analyses meeting the FBI's quality assurance standards, prepared by labs undergoing external proficiency testing every 180 days, and maintained by criminal justice agencies that limit the disclosure of the information to approved groups. Access to the national CODIS database is subject to cancellation if these requirements are not met and penalties of up to \$100,000 can be assessed for unauthorized disclosure or receipt of DNA samples/information. Each Program grantee signs a Statutory Assurance Certification, stating that they will comply with the provisions of the Act, which in turn means that they must require their contractors to comply with the Act, since the contractors are doing the actual DNA analysis work.

The Act also established the DNA Advisory Board (DAB), an entity that was to compose standards for quality assurance with which CODIS-participating laboratories would have to comply and which the Director of the FBI could then formally institute. The DAB produced one of the key sources of our audit criteria, as described below.

Quality Assurance Standards

A key source of criteria for our audits of the grantee and contractor laboratories is the quality assurance standards recommended by the DAB and formally instituted by the Director of the FBI. Although two sets of standards have been instituted, only the set specific to the analysis of convicted offender samples, the Offender QAS, applies to our audits.

The Offender QAS contains 130 elements, organized under 14 headings, of pertinence to our audits of the contractor laboratories. Not included in this count are the six elements found under one

APPENDIX III

heading, which are only applicable to our audits of the grantee laboratories. The remaining headings are as follows:

- The Quality Assurance Program: one should exist in writing and should contain the required categories of standards. This section contains 15 elements.
- Organization and Management: key roles and duties should be accounted for in writing, including the interrelation between the DNA analysis personnel. This section contains 4 elements.
- Personnel: personnel filling key roles should be properly educated, trained, and should be performing duties appropriate to their position. This section contains 24 elements.
- Facilities: the physical design of the laboratory and additional controls should ensure the integrity of laboratory security and minimize contamination. This section contains 6 elements.
- Sample Control: the laboratory should have a documented control system and necessary internal controls to implement it, to ensure the integrity of the offender samples. This section contains 5 elements.
- Validation: the laboratory should take the required steps to demonstrate (validate) that it and its analysts are capable of using certain equipment and methods properly. This section contains 8 elements.
- Analytical Procedures: every procedure used by the laboratory in the DNA analysis process, including equipment and supplies required in the process, should be detailed in writing and formally approved by laboratory management. This section contains 19 elements.
- Equipment Calibration and Maintenance: the laboratory should establish a written program for ensuring that equipment used for DNA analysis receives regular calibration and maintenance. Such calibration and maintenance should be clearly documented and be based upon independent national standards. This section contains 8 elements.

APPENDIX III

- Reports: the laboratory should have written guidelines for maintaining documentation that would thoroughly support the conclusions made in a report regarding case evidence. Reports should contain certain specified information and written policies should exist to govern the release of such information. This section contains 2 elements.
- Review: administrative and technical reviews should be conducted of all reports and supporting documentation for all evidence, to ensure the quality of the conclusions and supporting documentation. The testimony of analysts in court should also be reviewed. This section contains 3 elements.
- Proficiency Testing: those actively engaged in DNA analysis should complete an external proficiency test (a test from an outside agency or commercial test provider that measures an analyst's skill in performing DNA analysis correctly) every 180 days. Such tests should be reviewed and documented as delineated in the Offender QAS. This section contains 16 elements.
- Corrective Action: written procedures should exist that govern documentation and resolution of errors made during DNA analysis or a proficiency test. This section contains 2 elements.
- Audits: the laboratory should undergo an audit every year, and at least every other year this audit should be conducted by an external entity. This section contains 17 elements.
- Safety: the laboratory should have and follow a written environmental health and safety plan (1 element).

The Offender QAS contains six elements found under one heading, titled "Subcontractor of Analytical Testing for which Validated Procedures Exist," of pertinence to our audits of the grantee laboratories. Among more general requirements, the elements specify on-site visits, random re-analysis of samples, inclusion of quality control samples, and visual inspection of data returned by the contractor.

APPENDIX III

Program Grant Solicitation

The grant solicitation issued by OJP serves as another source of audit criteria for our audits of the eight grantee laboratories. Per the grant solicitation, Program grantee states were required to:

- select a contractor laboratory that is accredited by ASCLD/LAB (see glossary) or certified by NFSTC (see glossary), select a contractor laboratory in accordance with state procurement policies, and select a contractor laboratory within 120 days of the award of the grant;
- file timely (a) Financial Status Reports, (b) Progress Reports, (c) a quality control results report, and (d) reports of hits generated from offender and no-suspect samples analyzed under the grant;
- comply with the section of the Offender QAS addressing oversight of a sub-contractor;
- require the regular receipt of samples from the contractor laboratory (every 30 days);
- require the contractor laboratory to provide data for all 13 core STR loci in common computer language; and
- analyze no-suspect cases equal to 1 percent of the offender samples that the grant paid to have analyzed.

APPENDIX IV

FACTORS INFLUENCING THE BACKLOG

According to FBI personnel, state and local laboratory management,¹⁷ and the National Commission on the Future of DNA Evidence, several major factors have influenced the productivity of DNA laboratories across the country. Consequently, if a laboratory's productivity cannot keep pace with analysis demand, a backlog of samples awaiting analysis occurs. The following list focuses on those general factors that affect a laboratory's ability to analyze incoming offender samples.

DNA Technology

Three different DNA processing methods have been available to DNA laboratories: the Dot Blot method, the Restriction Fragment Length Polymorphism (RFLP) method, and the Short Tandem Repeat (STR) method. All these methods work on a similar principle - the process focuses on areas of the DNA that are very different from one person to the next. These areas are considered junk DNA because they do not "code" for anything (*i.e.*, the DNA does not translate into a personal identifying characteristic like "blue eyes" or into a genetic predisposition for disease).

The Dot Blot method is the least discriminating of the three methods. The results of the method are not used for comparison in CODIS databases, and therefore, no further information is included on this method.

The RFLP method is very discriminating but requires large amounts of good quality DNA and is the most time-consuming method; therefore, laboratories using this method will not have the same productivity level as a laboratory using STR. The RFLP process basically takes a DNA strand, looks for a certain combination of molecules on that strand, cuts the strand at that spot (locus), and

¹⁷ Interviews with FBI personnel and state and local laboratory management were conducted during the OIG internal audit of The Combined DNA Index System, Report No. 01-26. In addition, auditor observation during the eight CODIS Laboratory Audits conducted as a part of that internal audit were factored into the points that follow.

APPENDIX IV

then measures the length of the resulting fragments. A DNA strand looks like a ladder and RFLP measures the fragments by counting how many “rungs of the ladder” (called base-pairs) are in each fragment. Each person has these loci, but the variation between people is the length of the fragments.

The STR method is also very discriminating, but unlike RFLP can use small amounts of DNA and degraded DNA. In addition, the STR method can be done in a matter of days rather than weeks. The STR process is similar to RFLP, but the loci it looks at are different and the measuring unit it uses is different. STR looks for sections of repeating combinations of molecules, cuts the strand after the section of repeats, and then measures how many repeats were in that section.

Unfortunately, the results from RFLP analysis and the results from STR analysis are not compatible. Therefore, laboratories that have a well-established RFLP program and switch to STR face the trouble of not only getting different equipment and materials, perhaps changing the layout of their laboratories, and re-training all their staff, but also face the daunting task of performing STR analysis on all the DNA samples previously tested with RFLP.

Therefore, a laboratory’s productivity and ability to deal with incoming convicted offender samples will depend greatly upon which method the laboratory has been using and whether that laboratory had to switch from RFLP to STR.

Potential Resource Issues

A laboratory’s ability to keep pace with incoming convicted offender samples is greatly affected by resource issues. Examples of resource issues include:

- **Manufacturers:** If the manufacturers of equipment and supplies cannot provide the items a laboratory needs, then the laboratory is delayed in developing new or enhanced analysis capabilities and can be prevented from analyzing as many samples.
- **Funding:** The funding received by a laboratory is often proportional to the priority state and local legislators place on DNA activity. In addition, legislatures in many states have

APPENDIX IV

passed “unfunded mandates” (i.e., a law that requires the implementation of a convicted offender database without providing funding for that implementation).

- Personnel: The forensic applications of DNA science are relatively recent, and consequently the forensic DNA community is fairly small. Personnel that meet the education and experience requirements for certain positions are in high demand and can be difficult to find and keep. Consequently, productivity can be greatly influenced by personnel issues.

State Legislation

State legislation issues are discussed in detail in the Introduction section of this report, and unfunded mandates are covered by the Funding section above. These legislative issues combine to provide a challenging environment in which convicted offender databasing laboratories must work, and an environment that may not permit a productivity level that keeps pace with incoming samples.

Role of Sample Collection Agencies

Various agencies external to the laboratory are often charged by the legislation to oversee the collection of the convicted offender samples and the safe transfer of those samples to the possession of the laboratory. These agencies can include prison facilities, local jails, sheriff’s departments, and probation and parole offices. These external agencies face similar hurdles as the laboratory, including limited resources, unfunded mandates, and political issues. Also, the collection process makes the laboratories dependent on accuracy and thoroughness on the part of these external agencies. The collection agencies must ensure that the correct people are giving samples and that full and accurate identifying and criminal history information is sent to the laboratory with the sample.



U.S. Department of Justice

Office of Justice Programs

OIG Comment: OJP's response included two attachments that have been omitted. See Appendix VI for additional information.

Office of the Assistant Attorney General

Washington, D.C. 20531

APR 08 2002

MEMORANDUM TO: Guy K. Zimmerman
Assistant Inspector General for Audit
Office of the Inspector General

FROM: Deborah J. Daniels *Deborah J. Daniels*
Assistant Attorney General

SUBJECT: Office of Justice Programs' Response to the Draft Audit Report on
the Convicted Offender DNA Sample Backlog Reduction Grant
Program

This memorandum is in reference to your correspondence dated March 8, 2002, requesting comments on the Office of the Inspector General's (OIG's) draft audit report on the Convicted Offender DNA Sample Backlog Reduction Grant Program. The report includes two recommendations to the Office of Justice Programs (OJP). Since the time of the audit, the National Institute of Justice (NIJ) has begun implementing appropriate corrective action. For ease of review, the recommendations are restated in bold, followed by our responses.

Recommendation 1

We recommend that the Assistant Attorney General, Office of Justice Programs, ensure that the data being collected and monitored accurately gauges whether the Program is meeting its mission to reduce and ultimately eliminate the convicted offender DNA sample backlog awaiting analysis and entry into NDIS.

We agree with the underlying concern. Effective April 2002, we revised the mission statement to better reflect the mission of the Convicted Offender DNA Sample Backlog Reduction Grant Program. The revised mission is to reduce and ultimately eliminate the convicted offender DNA sample backlog awaiting analysis and increase the number of samples available for entry into the National DNA Index System (NDIS) (see Attachment A).

In light of the revisions we made to the Program's mission, we believe that the data we are collecting and monitoring (i.e. number of samples analyzed and number of states experiencing an increase in the number of samples contributed) appropriately measures our efforts toward meeting the Program's mission. Therefore, we consider this recommendation to be closed.

Recommendation 2

We recommend that the Assistant Attorney General, Office of Justice Programs, develop and implement written procedures to ensure that OJP grant officials follow up when grantees fail to comply with grant requirements or fail to file grant reports on a timely basis.

We agree with this recommendation. To strengthen efforts to ensure that grant recipients submit required programmatic reports, we changed our business practices with regard to grantee submission of progress reports. Beginning with reporting periods on or after June 30, 2002, grant payment requests will be withheld if progress reports are delinquent. This has been an effective practice in OJP as it relates to financial reports. We will revise the OJP Financial Guide to notify grant recipients regarding this change in the next update to the guide expected in May 2002.

In June 2001, NIJ implemented a tracking system that identifies when reports are due for each grant in the Convicted Offender DNA Backlog Reduction Program. Dates of submission of quarterly financial reports, semi-annual progress reports, and Offender Quality Assurance Standards test results are recorded in the system. Summary reports (see Attachment B) are generated from the tracking system on a weekly basis and the grant managers contact the grant recipients by telephone or in writing for reports that are over two weeks past due. The NIJ will supplement OJP's written procedures for following up on delinquent progress reports and resolving issues with grant recipients that do not comply with grant requirements with internal written procedures by the end of April 2002.

We appreciate the opportunity to comment on the draft report. If you have any questions or need additional information about this response, please contact me on (202) 307-5933 or LeToya Bryant, OJP Audit Liaison, on (202) 514-0692. Thank you for your continued cooperation and assistance.

Attachments

cc: Sarah V. Hart, Director
National Institute of Justice

Glenn Schmitt, Deputy Director
National Institute of Justice

David A. Boyd, Director
Office of Science and Technology
National Institute of Justice

Cynthia J. Schwimer
Comptroller

LeToya A. Bryant
OJP Audit Liaison

Vickie L. Sloan
DOJ Audit Liaison

OAAG Executive Secretariat
Control No. 20020390

APPENDIX VI

OFFICE OF THE INSPECTOR GENERAL AUDIT DIVISION ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE REPORT

The OJP response to our draft report appears in Appendix V and includes the actions OJP had taken or intended to take to close the audit recommendations. The response included two attachments, entitled: (1) Performance Measurement Table, and (2) Document Tracking Worksheet. Because the response included sufficient detail to address our recommendations, we did not include the attachments in this report.

The status of the individual recommendations is as follows.

1. **Closed.**
2. **Resolved.** OJP stated in its response that it had changed its business practices with regard to grantee submission of progress reports and that it will withhold grant payment requests if progress reports are delinquent. OJP also stated that it intends to revise the OJP Financial Guide to reflect these changes in its next update expected in May 2002. Further, NIJ plans to supplement OJP's written procedures with their own internal written procedures for following up on delinquent progress reports and resolving issues with grantees that fail to comply with grant requirements. This recommendation can be closed when we receive copies of the revised OJP Financial Guide and of the internal written procedures developed by NIJ.